

February 10, 2015

Members of the Senate Judiciary Committee

SENATE JUDICIARY

Exhibit No. 15

Date 2/10/15

Bill No. SB 202

Re: SB 202 Establish guidelines and immunities for physicians who provide end of life care

Dear Committee Members:

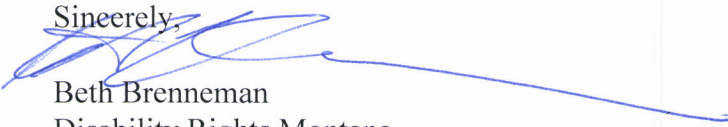
In recent years, Disability Rights Montana has been made aware of multiple circumstances where the withdrawal of life-sustaining treatment from persons with disabilities has been considered. Disability Rights Montana has been consulted in a total of eleven cases since 2006. In these cases, we have had access to all records and we have been involved in myriad ethics committee meetings and consultations with health care professionals about the possible withdrawal of life sustaining treatment.

We have limited our work to advising those involved of the requirements of the Rights of the Terminally Ill Act. Mont. Code Ann. § 50-9-101, et. seq. These cases have demonstrated to us the vast difference of interpretation of the current law from hospital to hospital and from health care provider to health care provider throughout Montana. This has been particularly true with regard to the interpretation of the definition of "terminal condition." Mont. Code Ann. §§ 50-9-102(16), 50-9-106 (1)(a). Unfortunately, this has meant that for some patients who have disabilities, withdrawal of treatment occurs prior to a determination of the patient's "terminal condition" or where the patient did not have a terminal condition at all.

As a result of our experience, as well as our years of work seeking the provision of dignified health care for people with disabilities, we are concerned about enacting assisted suicide legislation without strong provisions to ensure the accuracy of the terminal diagnosis – especially for patients with developmental disabilities. This accuracy is critical.

One of the ways that Oregon and Washington seek to establish this accuracy is the requirement that two physicians make this assessment. SB 202 allows there to be only one physician making this determination in some circumstances. We believe it is important to not only require two physicians to make this determination in every case, but also believe it is reasonable to require at least one of these physicians to be a specialist in the terminal condition at issue and in the particular disability of the patient, should the patient have a disability.

Sincerely,


Beth Brenneman
Disability Rights Montana